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SEPTEMBER 30, 1972

ON-FILE NSC RELEASE
INSTRUCTIONS APPLY

TO: AL HAIG

FROM: HENRY A. KISSINGER

1. SPENT THREE HOURS WITH DOBRYNIN, OSTENSIBLY TO PREPARE FOR GROMYKO'S VISIT WITH THE PRESIDENT, BUT ACTUALLY MOSTLY ON VIETNAM. CONVERSATION FURTHER RECONFIRMS OUR ASSESSMENT OF SITUATION AND LATEST DRV MESSAGE, NAMELY, OTHER SIDE IS PREPARED TO SETTLE ON BASIS DEFAC TO SITUATION AS LONG AS THEY CAN GET COSMETICS TO EASE THE PAIN.

2. DOBRYNIN CLAIMED TO BE SPEAKING ON PERSONAL BASIS, BUT LENGTH AND DETAIL MADE IT OBVIOUS HE WAS SPEAKING FOR THE OTHER SIDE WHICH HAD GIVEN HIM THEIR SEPTEMBER 26 PLAN. DOBRYNIN SAID THAT HIS UNDERSTANDING OF THEIR PLAN WAS THAT THEY ARE WILLING TO CONFIRM THE STATUS QUO BUT THEIR DILEMMA IS THAT THE POLITBURO CANNOT SIGN SOMETHING THAT LOOKS LIKE SURRENDER. HE DID NOT SEE WHY THEIR SEPTEMBER 26 PLAN SHOULD NOT GIVE US A BASIS FOR A SETTLEMENT SINCE NOTHING COULD HAPPEN WITHOUT GVN CONCURRENCE BECAUSE OF THE UNANIMITY PRINCIPLE. HIS MAIN THRUST WAS THAT WE SHOULD PICK UP AS MUCH OF THEIR COSMETIC FORMULATIONS AS POSSIBLE TO ALLOW THEM TO SETTLE ON BASIS WHICH IN REALITY KEEPS GVN STRUCTURE INTACT.

3. IN THIS CONTEXT, I SAID THAT WE WERE TENTATIVELY CONSIDERING THE IDEA OF HAVING A CONSTITUENT ASSEMBLY DRAFT A NEW CONSTITUTION. DOBRYNIN, AGAIN CLAIMING HE WAS SPEAKING PERSONALLY, THOUGHT THAT THIS WOULD BE A MISTAKE FROM OUR OWN POINT OF VIEW SINCE THE DRV PROPOSAL LEAVES THE DRAFTING TO THE NATIONAL CONCORD BODY. THE DRV APPROACH GUARANTEES THAT NO CONSTITUTION COULD EMERGE, AT LEAST FOR MANY YEARS, BECAUSE OF THE PRINCIPLE OF UNANIMITY. BY THE SAME TOKEN, THE CONSTITUENT ASSEMBLY WOULD BE HARMLESS BECAUSE IT WOULD HAVE NOTHING TO DISCUSS.

4. I THEN RAISED THE ISSUE OF THIEU'S RESIGNATION, POINTING OUT THAT THIS WAS A MAJOR DIFFICULTY FOR US. HE SAID THAT A POSSIBLE COMPROMISE WAS TO LET THE CONSTITUENT ASSEMBLY ELECT THE NEW CHIEF EXECUTIVE AS ITS FIRST ITEM OF BUSINESS, KEEPING THE PRESENT PROVISION IN OUR PRESIDENTIAL ELECTION APPROACH THAT THIEU WOULD RESIGN ONE MONTH BEFORE THE ELECTION OF THE CONSTITUENT ASSEMBLY. IN THIS WAY, WE WOULD MEET THE NORTH VIETNAMESE POINT THAT THE PRESIDENT SHOULD NOT BE ELECTED BY POPULAR VOTE. WHEN I ASKED WHETHER THIEU WOULD BE ELIGIBLE FOR RE-ELECTION UNDER THIS APPROACH, DOBRYNIN SAID THAT SINCE WE WERE TALKING ABOUT FACE-SAVING FORMULAS IN ANY EVENT AND THAT THE OTHER SIDE HAD NOT RAISED THIS SPECIFIC QUESTION, WE SHOULD NOT BORROW TROUBLE BY RAISING IT OURSELVES. THIS WAS A DRV PROBLEM, NOT OURS.

5. THIS CONVERSATION SUGGESTS THAT WE MIGHT WISH TO TABLE A COMBINATION OF THE TWO PLANS YOU HAVE WITH YOU, I.E., AN APPROACH WHEREBY THERE WOULD BE ELECTIONS FOR A CONSTITUENT ASSEMBLY AND ITS FIRST TASK WOULD BE TO ELECT A NEW CHIEF EXECUTIVE. IN ANY EVENT, THIS CONVERSATION OPENS UP A NEW DIMENSION AND MAKES

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IT EVEN MORE NECESSARY TO HAVE FLEXIBILITY GOING INTO THE NEXT MEETINGS. THUS, YOU SHOULD GO AHEAD AND PRESENT THE TWO PLANS AS THEY ARE BUT YOUR EMPHASIS SHOULD BE ON FLEXIBILITY. WE MAY BE ABLE TO USE VARIOUS MIXES AND ARE NOT WED TO ANY PARTICULAR FORMULA. WHAT LOOKS BEST HERE MAY NOT BE BEST FOR THE GVN, E.G., THIEU MAY PREFER A PRESIDENTIAL ELECTION TO A PRESIDENT ELECTED BY A CONSTITUENT ASSEMBLY. THE MAIN POINT IS THAT WE WOULD LIKE TO HAVE AS MANY BUILDING BLOCKS AS POSSIBLE FOR A FLEXIBLE APPROACH TO THE NEXT MEETING.

6. YOU SHOULD TALK TO THIEU IN THE SPIRIT OF COOPERATION, MAKING THESE ADDITIONAL POINTS. FIRST, WE HAVE FOR THE FIRST TIME WITH THE LATEST DRV PLAN A MAJOR BREAK IN THE NEGOTIATIONS. IT IS SILLY TO PRETEND OTHERWISE.

SECONDLY, THE CLOCK IS NOW RUNNING AGAINST THE OTHER SIDE. THE ENEMY CLEARLY WANTS TO SETTLE NOW. THIRD, THE BEST OUTCOME FROM YOUR TRIP WOULD BE FOR THIEU TO COOPERATE IN GIVING US A SERIES OF FLEXIBLE ELEMENTS THAT WE COULD USE WHILE MAINTAINING THE SUBSTANTIVE ESSENCE OF OUR POSITION. THUS, WE WOULD LIKE TO HAVE THE ALTERNATIVE OF THE CONSTITUENT ASSEMBLY APPROACH OR THE PRESIDENTIAL ELECTION APPROACH OR IDEALLY AN APPROACH WHEREBY THE CHIEF EXECUTIVE IS ELECTED BY THE CONSTITUENT ASSEMBLY, WITH THIEU RESIGNING ONE MONTH BEFORE BUT ELIGIBLE FOR ELECTION. THIEU'S PERSONAL SAFEGUARD WOULD BE THAT THERE WOULD BE NO ELECTIONS FOR ANYTHING, OF COURSE, UNTIL THE ELECTORAL LAWS WERE AGREED UPON AND THE UNANIMITY PRINCIPLE SERVES AS PROTECTION IN THIS REGARD. ALMOST ANY FORMULA THAT KEEPS HIM IN OFFICE ON THE DAY OF SETTLEMENT IS THEREFORE LIKELY TO KEEP HIM IN OFFICE INDEFINITELY.

7. AS FOR YOUR CONCERN THAT THERE MIGHT BE AN ENEMY HIGH POINT IN OCTOBER, IF A SETTLEMENT SEEMS NEAR AT THE NEXT MEETING, I WILL MAKE IT ABSOLUTELY CONDITIONAL ON THERE BEING NO ESCALATION IN MILITARY ACTIVITY.

8. YOU SHOULD ALSO TELL THIEU THAT IF THERE IS PROGRESS AT THE NEXT MEETING, I WOULD BE PREPARED TO GO STRAIGHT FROM PARIS TO SAIGON TO BRIEF HIM.

9. I AM SENDING YOU A PAPER FROM GEORGE CARVER WHICH YOU SHOULD KEEP VERY MUCH IN MIND IN YOUR DISCUSSIONS. IT MAKES A THIEU RESIGNATION LOOK LESS AND LESS SENSIBLE.

WARM REGARDS.

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